



COMMONWEALTH of VIRGINIA
Office of the Attorney General
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MEMORANDUM

TO: O. Gene Dishner, Director
Department of Mines, Minerals and Energy (“Department”)

FROM: Sharon M.B. Pigeon
Assistant Attorney General

DATE: March 12, 2003

RE: Regulations Governing Coal Stockpiles and Bulk Storage and Handling
Facilities, 4 VAC 25-125 (“Proposed Regulation”)

The Office of the Attorney General was advised that the Department proposes to promulgate a new regulation governing Coal Stockpiles and Bulk Storage and Handling Facilities by electronic memorandum dated February 28, 2003 from Stephen Walz, Regulatory Coordinator for the Department of Mines, Minerals and Energy. We were informed the Proposed Regulation was drafted to protect the health and safety of mine workers, specifically in the use of heavy equipment around coal and material stockpiles and bulk storage and handling facilities associated with coal mines.

On March 12, 2003, you asked that I provide you with a determination of whether statutory authority exists to promulgate the proposed regulation 4 VAC 25-125, as posted at www.townhall.state.va.us (“Proposed Regulation”). After a review of the Proposed Regulation, I have determined that the regulation does fall within the Department’s powers and mandate to act to ensure the health and safety of mine workers and to ensure the protection of the public welfare and safety. The proposed regulation is approved as to form as currently written.

I have reached this conclusion in reliance on the general authority to promulgate regulations given to the Department through Va. Code §§ 45.1-161.3(4) and 45.1-228. Additional, more specific support for this authority can also be found in §§ 45.1-161.21, 45.1-161.106, 45.1-161.107 and 45.1-161.254 of the Virginia Code, 1952, as amended.

